

PT 02-25

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

| | | | |
|----------------------------------|---|--|--------------------------------|
| METRO EAST FAMILY CHURCH |) | A.H. Docket # | 01-PT-0055 |
| Applicant |) | Docket #s | 00-82-127 through 131 |
| v. |) | | |
| |) | P. I. #s | 02-18.0-124-024 through |
| THE DEPARTMENT OF REVENUE |) | 02-18.0-124-026 and 02-18.0-124-028 | |
| OF THE STATE OF ILLINOIS |) | through 02-18.0-124-031 | |

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Matthew Crain, Special Assistant Attorney General for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was on January 3, 2002, to determine whether St. Clair County Parcel Index Nos. 02-18.0-124-024, 02-18.0-124-025, 02-18.0-124-026, 02-18.0-124-028, 02-18.0-124-029, 02-18.0-124-030, and 02-18.0-124-031 qualified for exemption during the 2000 assessment year.

Reverend Robby L. Owens, Pastor of the Metro East Family Church, (hereinafter referred to as the "Applicant") was present and testified on behalf of applicant.

The issues in this matter include: first, whether the applicant was the owner of the properties during the 2000 assessment year; secondly, whether applicant is a religious organization; and lastly, whether these parcels were being adapted by applicant or were in fact used by applicant for exempt purposes during the 2000 assessment year. After a thorough review of the facts and law presented, it is my recommendation that the exemption be granted in

part. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that St. Clair County Parcel Index Nos. 02-18.0-124-024, 02-18.0-124-025, 02-18.0-124-026, 02-18.0-124-028, 02-18.0-124-029, 02-18.0-124-030, and 02-18.0-124-031 did not qualify for a property tax exemption for the 2000 assessment year were established by the admission into evidence of Dept. Ex. No. 1. (Tr. p. 11)

2. On March 7, 2001, the Department received the request for exemption of St. Clair County Parcel Index Nos. 02-18.0-124-024, 02-18.0-124-025, 02-18.0-124-026, 02-18.0-124-028, 02-18.0-124-029, 02-18.0-124-030, and 02-18.0-124-031. On July 12, 2001, the Department denied the requested exemptions. The basis of the denials was that applicant failed to supply information after repeated requests. On July 26, 2001, applicant timely protested the denials and requested a hearing. The hearing held on January 3, 2002, was pursuant to that request. (Dept. Ex. No. 1)

3. The applicant acquired Parcel Index No. 02-18.0-124-031 by a quitclaim deed dated September 25, 2000. The property is a 130 by 50 square-foot vacant lot. The property is used for parking for applicant's congregation. (Dept. Ex. No. 1, pp. 23, 32; Tr. pp. 26, 29)

4. Applicant acquired Parcel Index No. 02-18.0-124-030 by a quitclaim deed dated June 23, 1999. The property is 150 square feet by 130 square feet. (Dept. Ex. No. 1 pp. 34-43)

5. Applicant acquired Property Index No. 02-18.0-124-029, a 150 square foot by 130 square foot lot, by a quitclaim deed dated November 26, 1999. (Dept. Ex. No. 1 pp. 46-54)

6. Applicant acquired Parcel Index No. 02-18.0-124-028 by a quitclaim deed dated December 17, 1999. The property is a 130 by 50 square foot lot. (Dept. Ex. No. 1, pp. 57-66)

7. Applicant acquired Parcel Index Nos. 02-18.0-124-024, 02-18.0-124-025, and 02-18.0-124-026 by a quitclaim deed dated March 18, 1998. When acquired, the property was vacant land. The proposed use for the property is as a parking lot. (Dept. Ex. No. 1 pp. 68-76)

8. Applicant acquired the properties to build its church and related areas.

Applicant's congregation is composed of approximately 200 members. Applicant's resident church membership was 60 people in 1996; 85 in 1997; 125 in 1998; and 175 by October 31, 1999. (Dept. Ex. No. 1; Applicant's Ex. No. 2; Tr. p. 25)

9. An architect gave the applicant initial plans for construction of the proposed 11,360 square foot worship facility in January 1998. The worship building will contain a stage, sanctuary, restrooms, offices, a conference room, kitchen, multi-purpose room, an entryway, vestibule, and halls, and three-child care/Sunday School areas. (Applicant's Ex. Nos. 1, 2)

10. Applicant's board approved the worship center project in mid 1998. (Tr. pp. 19-20)

11. Engineering specifications for the building were approved on July 22, 1999. (Applicant's Ex. No. 1)

12. In January 2000, applicant offered two hundred fifty-five thousand dollars worth of first mortgage bonds, dated January 15, 2000, to the members of its congregation to finance the construction costs of the worship facility. Prior to that time, applicant used reserved funds to cover costs of the project. (Applicant's Ex. No. 2; Tr. pp. 16-20)

13. Land clearance for the worship center began in 1999. Building continued through 2000, with the applicant acting as its own general contractor. Members of the congregation donated time to help with construction. Applicant started using the building for worship in July 2001. (Tr. pp. 21-26)

14. Applicant conducts worship services, prayer meetings, bible studies, youth, single parent, and student tutoring activities in the building. (Tr. p. 25)

15. Applicant is exempt from the payment of Illinois sales taxes pursuant to a letter issued by the Department finding that the applicant is organized and operated exclusively for religious purposes. (Applicant's Ex. No. 1)

16. Applicant is exempt from the payment of federal income taxes pursuant to a finding by the Internal Revenue Service that it is an organization described under Section 501 (c)(3) of the Internal Revenue Code. (Applicant's Ex. No. 1)

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, . . .

In addition, 35 **ILCS** 200/15-125 exempts certain property from taxation in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the

exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967)

In The People v. Deutsche Gemeinde, 249 Ill. 132 (1911) the Court stated:

Unless facts are stated from which it can be seen that the use is religious or a school use in the sense in which the term is used in the constitution the application should be denied. The words used in the constitution are to be taken in their ordinary acceptation and under the rule of strict construction, which excludes all purposes not within the contemplation of the framers of that instrument. While religion, in its broadest sense, includes all forms and phases of belief in existence of superior beings capable of exercising power over the human race, yet in the common understanding and in its application to the people of this State it means the formal recognition of God as members of societies and associations. As applied to the uses of property, a religious purpose means a use of such property by a religious society or body of persons as a stated place for public worship, Sunday schools and religious instruction. *Id.* at 136-137

The applicant acquired Parcel Index Nos. 02-18.0-124-024 through 02-18.0-124-026 by a quitclaim deed dated March 18, 1998. It acquired Parcel Index No. 02-18.0-124-028 on December 17, 1999; Parcel Index No. 02-18.0-124-029 on November 26, 1999; and Parcel Index No. 02-18.0-124-030 on June 23, 1999. The properties are contiguous with each other. The application is for the year 2000, so the applicant owned the above properties for the entire year. In 1998 applicant began the development of its new worship center. An architect drew plans and applicant's board approved the project. In 1999 engineering specifications were approved and land clearance began. The building construction continued throughout 2000 and applicant's church opened in July 2001.

The applicant acquired Parcel Index No. 02-18.0-124-031 on September 25, 2000. The applicant uses the property for parking for its congregation. The Department denied all the requested exemptions because the applicant failed to provide information regarding the adaptation and development of the subject properties for exempt use in 2000.

Illinois Courts have consistently held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11(1924); In re. Application of County Collector, 48 Ill.App.3d 572 (1st. Dist. 1977); and Weslin Properties Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987). By the documents and testimony submitted, I conclude that the applicant has provided sufficient evidence of the adaptation of Parcel Index Nos. 02-18.0-124-024, 02-18.0-124-025, 02-18.0-124-026, 02-18.0-124-028, 02-18.0-124-029, and 02-18.0-124-030 to qualify for exemption for the entire 2000 assessment year. The applicant acquired 02-18.0-124-031 on September 25, 2000, and uses the property as parking for its congregation. I also find that there was sufficient adaptation of this property to qualify for exemption for the period of September 25, 2000 through December 31, 2000 or for 27% of the 2000 assessment year, the portion that the applicant owned the property.

It is therefore recommended that Parcel Index Nos. 02-18.0-124-024, 02-18.0-124-025, 02-18.0-124-026, 02-18.0-124-028, 02-18.0-124-029, and 02-18.0-124-030 be granted an exemption for the entire 2000 assessment year, and Parcel Index No. 02-18.0-124-031 be granted an exemption for 27% of the 2000 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
Date: April 22, 2002